

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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R. L. Mlazgar Associates, Inc.,

Civ. No. 22-cv-942 (NEB/DJF)

Plaintiff,

v.

**ORDER**

Focal Point L.L.C., and Legrand North America  
LLC,

Defendants,

and

Kenall Manufacturing Company,

Movant.

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**ORDER**

For the reasons stated on the record during the hearing, Kenall Manufacturing Company's Motion to Quash Third Party Subpoena ("Motion") (ECF No. [89]) is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. All Requests shall be limited to the time period from **10/15/2020** to present, consistent with the Court's previous discovery Order (ECF No. 37).

2. Kenall is not required to produce documents that are not in its custody and control. Documents held by Kenall's affiliates, but not by Kenall, are not in Kenall's custody and control for purposes of this Order. To the extent Kenall claims it does not have anything responsive to all or part of a particular Request, it shall provide a statement signed by counsel verifying it has nothing to produce.

3. **Request Number 7:** Kenall's Motion is **GRANTED** as set forth in paragraphs 1 and 2 above. Kenall's Motion is further **GRANTED** insofar as Request Number 7 shall be limited to

requested documents pertaining to David Michaels. Searches for these documents shall be limited to the search terms proposed by Kenall (“Mlazgar”, “Elan”, or “JTH”) and a narrowly-tailored list of key individuals’ names and/or email addresses to be identified by Mlazgar and Kenall in a good faith meet and confer. The parties shall meet and confer by **November 10, 2023**. The Court notes that the proportionality of any list including more than 15 names will be closely scrutinized. Kenall’s Motion is otherwise **DENIED**. Kenall’s request for reimbursement of the costs and fees incurred in responding to Request Number 7 is **DENIED**.

4. **Request Numbers 8-10:** Kenall’s Motion is **GRANTED** as set forth in paragraphs 1 and 2 above. Kenall’s Motion is otherwise **DENIED**. Kenall shall produce documents within these limits and as further limited by their agreement regarding the topics to be produced.

5. **Request Number 11:** Kenall’s Motion is **GRANTED** as set forth in paragraphs 1 and 2 above. Request Number 11 shall further be limited to documents regarding funding related to the establishment of JTH’s Milwaukee office. Kenall’s Motion is otherwise **DENIED**. The parties shall meet and confer by **November 10, 2023** to develop a list of reasonable search terms for these documents.

6. **Request Number 16:** In light of the parties’ representation that Kenall has now produced the thumb drive at issue, its Motion is **DENIED AS MOOT**.

7. Kenall shall either prepare a first-round, partial production of documents in response to the subpoena by **December 7, 2023**, or in the alternative, file a letter to the Court regarding the status of the production and anticipated production date(s) and explaining any cause for delay. By **November 10, 2023**, Kenall shall provide Mlazgar with an anticipated date for completion of its production of documents in response to the subpoena.

The Court strongly encourages the parties to work together to resolve disputes without need

for the Court's assistance. All future hearings with respect to this subpoena will be conducted in person with client representatives in attendance.

Dated: November 7, 2023

*s/ Dulce J. Foster*

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DULCE J. FOSTER

United States Magistrate Judge